

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 5**

**IN THE MATTER OF:**

**Fox River Water Reclamation District  
1957 North La Fox Street  
South Elgin, Illinois 60177**

**ATTENTION:**

**Robert Trueblood  
Executive Director  
[rtrueblood@fwr.com](mailto:rtrueblood@fwr.com)**

**Request to Provide Information Pursuant to the Clean Water Act**

The U.S. Environmental Protection Agency is requiring the Fox River Water Reclamation District (Fox River or you) to submit certain information about the facility at Clifford Avenue and Frazier Avenue in Elgin, Illinois. Appendix A provides the instructions needed to answer this information request, including instructions for electronic submissions. Appendix B specifies the information that you must submit. You must send this information to us within 30 calendar days after you receive this request. If you are unable to respond in a timely fashion because of impacts related to the COVID-19 pandemic, please submit a written extension request via email to [ellens.newton@epa.gov](mailto:ellens.newton@epa.gov), explaining the specific impacts on your ability to respond.

We are issuing this information request under Section 308(a) of the Clean Water Act (CWA or Act), 33 U.S.C. § 1318(a). Section 308(a) authorizes the Administrator of EPA to require the submission of information. The Administrator has delegated this authority to the Director of the Enforcement and Compliance Assurance Division, Region 5.

Section 308(a) of the CWA, 33 U.S.C. § 1318(a), provides, among other things, that whenever required to carry out an objective of the Act, the Administrator of EPA shall require

the owner or operator of any point source to: establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment or methods (including where appropriate, biological monitoring methods), sample such effluents (in accordance with such methods, at such locations, at such intervals, and in such manner as the Administrator shall prescribe), and provide such other information as the Administrator may reasonably require.

Fox River owns and operates a point source at the Elgin, Illinois facility. We are requesting this information to determine whether this source is complying with the CWA.

Fox River must send all required information to [ellens.newton@epa.gov](mailto:ellens.newton@epa.gov). If, for some reason, materials cannot be transmitted electronically, submissions can be sent to:

Water Enforcement and Compliance Assurance Branch  
Enforcement and Compliance Assurance Division  
U.S. Environmental Protection Agency  
Region 5  
Attn: Newton Ellens, ECW-15J  
77 W. Jackson Boulevard  
Chicago, Illinois 60604

Fox River must submit all required information under an authorized signature with the following certification:

I certify under penalty of law that I have examined and am familiar with the information in the enclosed documents, including all attachments. Based on my inquiry of those individuals with primary responsibility for obtaining the information, I certify that the statements and information are, to the best of my knowledge and belief, true and complete. I am aware that there are significant penalties for knowingly submitting false statements and information, including the possibility of fines or imprisonment pursuant to Section 308(a) of the Clean Water Act, 33 U.S.C. § 1318(a).

As explained more fully in Appendix C, Fox River may assert a claim of business confidentiality under 40 C.F.R. Part 2, Subpart B for any part of the information submitted to us. Information subject to a business confidentiality claim is available to the public only to the extent, and by means of the procedures, set forth at 40 C.F.R. Part 2, Subpart B. If Fox River

does not assert a business confidentiality claim when submitting the information, EPA may make this information available to the public without further notice. Fox River should be aware, however, that pursuant to Section 308(b) of the CWA, 33 U.S.C. § 1318(b), and 40 C.F.R. § 2.302(e), effluent data, standards, and limitations are not eligible for confidential treatment.

This information request is not subject to the Paperwork Reduction Act, 44 U.S.C. § 3501 *et seq.*, because it seeks collection of information from specific individuals or entities as part of an administrative action or investigation.

We may use any information submitted in response to this request in an administrative, civil or criminal action. Failure to comply fully with this information request may subject Fox River to an enforcement action under Section 309 of the CWA, 33 U.S.C. § 1319, and 18 U.S.C. §§ 1001 and 1341.

You should direct any questions about this information request to Newton Ellens of my staff at (312) 353-5562.

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Michael D. Harris  
Director  
Enforcement and Compliance Assurance Division

## **Appendix A**

When providing the information requested in Appendix B, use the following instructions and definitions.

### **Instructions**

1. Provide a separate narrative response to each question and subpart of a question set forth in Appendix B.
2. Precede each answer with the number of the question to which it corresponds and, at the end of each answer, identify the person(s) who provided information used or considered in responding to that question, as well as each person consulted in the preparation of that response.
3. Indicate on each document produced, or in some other reasonable manner, the number of the question to which it corresponds.
4. When a response is provided in the form of a number, specify the units of measure of the number in a precise manner.
5. Where information or documents necessary for a response are neither in your possession nor available to you, indicate in your response why the information or documents are not available or in your possession, and identify any source that either possesses or is likely to possess the documents or information.
6. If information is not known or not available to you as of the date of submission and later becomes known or available to you, you must supplement your response. Moreover, should you find at any time after the submission of your response that any portion of the submitted information is false or incorrect, you must notify EPA as soon as possible.

### **Electronic Submissions**

To aid in our electronic recordkeeping efforts, we request that you provide all documents responsive to this information request in an electronic format according to paragraphs 1 through 6, below. These submissions are in lieu of hard copy.

1. Provide all responsive documents in Portable Document Format (PDF) or similar format, unless otherwise requested in specific questions. If the PDFs are scanned images, perform at least Optical Character Recognition (OCR) for “image over text” to allow the document to be searchable. Submitters providing secured PDFs should also provide unsecured versions for EPA use in repurposing text.
2. When specific questions request data in electronic spreadsheet form, provide the data and corresponding information in editable Excel or Lotus format, and not in image format. If Excel or Lotus formats are not available, then the format should allow for data to be used in calculations by a standard spreadsheet program such as Excel or Lotus.

3. Provide a table of contents for the electronic documents submitted in response to our request so that each document can be accurately identified in relation to your response to a specific question. *We recommend the use of electronic file folders organized by question number.*
4. Documents claimed as confidential business information (CBI) must be submitted in separate file folders apart from the non-confidential information. This will facilitate appropriate records management and appropriate handling and protection of the information claimed as CBI. Please follow the instructions in Appendix C for designating information as CBI.
5. Certify that all electronic submittals including attached files have been scanned for viruses and indicate what program was used.

### **Definitions**

All terms used in this Information Request have their ordinary meaning unless such terms are defined in the CWA, 33 U.S.C. § 1251 *et seq.*, or 40 C.F.R. Part 122.

1. “Act” or “CWA” means the Clean Water Act, 33 U.S.C. § 1251 *et seq.*
2. “Day” or “days” means a calendar day unless expressly stated to be a working day. In computing any period of time under this Information Request, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business on the next working day.
3. “Discharge of a pollutant,” as defined in Section 502(12) of the CWA, means *inter alia*, “any addition of any pollutant to navigable waters from any point source.” 33 U.S.C. § 1362(12).
4. “MGD” means millions of gallons per day.
5. “Navigable waters,” as defined in Section 502(7) of the CWA, means “the waters of the United States, including the territorial seas.” 33 U.S.C. § 1362(7).
6. “NPDES Permit” and “Permit” mean the permit issued in accordance with the National Pollutant Discharge Elimination System (NPDES) pursuant to Section 402 of the CWA, 33 U.S.C. § 1342. In this Order, these terms mean NPDES Permit No. IL0028665, issued by the State of Illinois to Fox River with the effective date of January 1, 2019, and the expiration date of December 31, 2023.

7. "Outfall" means a type of "point source," as that term is defined in Section 502(14) of the CWA, 33 U.S.C. § 1362(14), that serves as a discharge point from the facility. "Outfall" followed by an Arabic numeral means that Outfall assigned that number in Fox River's NPDES permit.
8. "Record" or "records" means any recording of information in tangible or intangible form. It includes, but is not limited to: documents, memoranda, reports, letters, maps, graphs, charts, log books, notes, computer printouts, and computer databases.
9. "Storm water" shall mean storm water runoff, snow melt runoff, surface runoff and drainage.
10. "Site" means the property located at Clifford Avenue and Frazier Avenue.
11. "Wastewater" shall mean any water/liquid and all material conveyed with that water/liquid that contains process wastewater, discarded material, noncontact cooling and/or heating water, or domestic wastewater.
12. "You" or "Your" for purposes of this Information Request refers to Fox River and to any managers, officers, agents, employees, contractors, or other entities that perform work or act in any way on behalf of, or at the direction of Fox River.
13. "Point source," as defined in Section 502(14) of the CWA, means "any discernible, confined and discrete conveyance . . . from which pollutants are or may be discharged." 33 U.S.C. § 1362(14).
14. "Pollutant," as defined in Section 502(6) of the CWA, means "dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into water." 33 U.S.C. § 1362(6).
15. "Publicly Owned Treatment Works" or "POTW" means a treatment works, as defined in Section 212 of the CWA, 33 U.S.C. § 1292(2), that is owned by a State, Tribe, or a municipality (as defined in Section 502(4) of the CWA, 33 U.S.C. § 1362(4)). Pursuant to 40 C.F.R. § 403.3(q), the definition of POTWs includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW Treatment Plant. The term also means the municipality as defined in Section 502(4) of the CWA, 33 U.S.C. § 1362(4), that has jurisdiction over indirect and direct discharges to such a treatment works.
16. "Wastewater Treatment Plant" or "WWTP" means the Wastewater Treatment Plant identified in the NPDES permit issued to Fox River and located at Clifford Avenue and Frazier Avenue in Elgin, Illinois.

## **Appendix B**

### **Information You Are Required to Submit to EPA**

The Fox River Water Reclamation District (Fox River, POTW, or you) must submit the following information pursuant to Section 308(a) of the Act, 33 U.S.C. § 1318(a):

1. Are there any contributing jurisdictions discharging wastewater to the POTW? If so, explain how Fox River's legal authority addresses these contributing jurisdictions. Include the following implementation responsibilities:
  - a. Industrial waste survey activities;
  - b. Industrial User (IU) permitting;
  - c. IU inspections;
  - d. IU sampling (by the Control Authority, and IU); and
  - e. Enforcement.
2. How are Significant IUs (SIUs) identified and categorized?
3. How and when does Fox River conduct an industrial waste survey to identify new IUs, including those in contributing jurisdictions?
4. Submit a list of IUs currently identified by Fox River in each of the following classifications:
  - a. Total SIUs;
  - b. Categorical Industrial Users (CIUs)—describe the categorical rule(s) applicable to each CIU;
  - c. Noncategorical SIUs;
  - d. Zero-discharging CIUs—describe the categorical rule(s) applicable to each CIU;
  - e. Non-significant CIUs—describe the categorical rule(s) applicable to each CIU;
  - f. Middle-Tier CIUs—describe the categorical rule(s) applicable to each CIU;
  - g. Non-significant, non-categorical IUs; and
  - h. Total IUs.
5. Do any Underground Storage Tank (UST), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), Resource Conservation and Recovery Act (RCRA) corrective action sites and/or other contaminated ground water sites discharge wastewater to Fox River? How are control mechanisms developed for these sites?
6. Does Fox River accept any waste by truck, rail, or dedicated pipe?
  - a. If so, provide a list of these types of sources;
  - b. State whether any of the waste discharged is hazardous (as defined by RCRA);

- c. Describe Fox River's program to control hauled wastes (including the number of designated discharge points, security procedures, discharge permits, sampling procedures); and
  - d. What limits (categorical, local, other) does Fox River apply to wastes that are hauled to Fox River?
- 7. What pollutants has Fox River set local limits for?
  - a. What was the most prevalent/most stringent criteria for each local limit?
  - b. Which allocation method(s) were used (e.g., uniform or non-uniform)?
  - c. Has Fox River identified any pollutants of concern beyond those in its local limits? If yes, how has this been addressed?
- 8. Provide a copy of Fox River's sewer use ordinance.
- 9. How does Fox River determine adequate IU monitoring (sampling, inspecting, and reporting) frequencies?
- 10. In the past 12 months, indicate which SIUs that Fox River identified as being in significant noncompliance (SNC), as defined by 40 C.F.R. § 403.8(f)(2)(viii).
  - a. Identify the cause of SNC for each SIU.
  - b. Did Fox River publish all SIUs in SNC in the largest daily newspaper in the previous year? If so, provide a copy of the publication.
- 11. Describe Fox River's basic IU inspection procedures (e.g., inspection of process areas, pretreatment facilities, chemical and hazardous waste storage areas, chemical spill prevention areas, hazardous waste handling procedures, sampling procedures, laboratory procedures, and monitoring records).
- 12. Does Fox River or a contract laboratory perform Fox River's compliance monitoring analysis for the following pollutants? (If a contract laboratory performs the analysis, provide the contract laboratory's name.)
  - a. Metals;
  - b. Cyanide;
  - c. Organics; and
  - d. Other (specify).
- 13. What QA/QC techniques does Fox River use for sampling and analysis (e.g., splits, blanks, spikes), including verification of contract laboratory procedures and appropriate analytical methods?
- 14. Did any IUs notify Fox River of a hazardous waste discharge, as defined by 40 C.F.R. § 403.12(p)? If so, provide a copy of the notice.



15. How and when does Fox River evaluate/reevaluate SIUs for the need for a slug control plan? Which SIUs did Fox River require to have a slug control plan?
16. Provide a copy of Fox River's enforcement response plan, as defined by 40 C.F.R. § 403.8(f)(5).
17. List which IUs have violated pretreatment standards and/or requirements in the past three years. Indicate what enforcement response(s) Fox River took against each IU, and whether Fox River's action brought the IU back into compliance.
18. Describe incidences where industrial discharges have caused pass-through or interference at Fox River's POTW in the past three years (discharges which caused Fox River to violate effluent limits in its NPDES permit). State what actions Fox River took to resolve the issue(s), and whether Fox River's action resolved the issues(s).
19. How does Fox River handle/maintain confidential information?
20. How long does Fox River maintain pretreatment-related records?
21. Estimate the number of personnel (in FTEs) available for implementing the program. Consider: legal assistance, permitting, IU inspections, sample collection, sample analysis, data analysis, review and response, enforcement, and administration (including record keeping and data management).
22. Estimate the annual operating budget for Fox River's pretreatment program.
23. Submit copies of the following pretreatment implementation documentation (for Dynacast, Hydrox Laboratories, and John B. Filippo and Sons). Submit documentation (if applicable) for the past three years:
  - a. IU permits;
  - b. Slug control plan;
  - c. Toxic Organic Management Plan;
  - d. Inspection reports;
  - e. Self-monitoring reports (Include each analytical report and associated chain of custody);
  - f. Analytical reports for samples collected by Fox River. Include each analytical report, and associated chain of custody; and
  - g. Documentation for enforcement actions Fox River took against each IU.

## **Appendix C**

### **Confidential Business and Personal Privacy Information**

#### **Assertion Requirements**

You may assert a business confidentiality claim covering any parts of the information requested in the attached Appendix B, as provided in 40 C.F.R. § 2.203(b).

To make a confidentiality claim, submit the requested information and indicate that you are making a claim of confidentiality. Any document for which you make a claim of confidentiality should be marked by attaching a cover sheet stamped or typed with a caption or other suitable form of notice to indicate the intent to claim confidentiality. The stamped or typed caption or other suitable form of notice should employ language such as “trade secret” or “proprietary” or “company confidential” and indicate a date, if any, when the information should no longer be treated as confidential. Information covered by such a claim will be disclosed by EPA only to the extent permitted and by means of the procedures set forth at Section 308(a) of the CWA and 40 C.F.R. Part 2. Please clearly identify portions of otherwise non-confidential documents that you are claiming as confidential. EPA will construe the failure to furnish a confidentiality claim with your response to the information request may result in the information being made available to the public without further notice to you.

#### **Determining Whether the Information Is Entitled to Confidential Treatment**

Pursuant to 40 C.F.R. Part 2, Subpart B, EPA may at any time send you a letter asking that you support your confidential business information (CBI) claim. If you receive such a letter, you must respond within the number of days specified by EPA. Failure to submit your comments within that time would be regarded as a waiver of your confidentiality claim or claims, and EPA may release the information. If you receive such a letter, EPA will ask you to specify which portions of the information you consider confidential by page, paragraph and sentence. Any information not specifically identified as subject to a confidentiality claim may be disclosed to the requestor without further notice to you. For each item or class of information that you identify as being CBI, EPA will ask that you answer the following questions, giving as much detail as possible:

1. For what period of time do you request that the information be maintained as confidential, e.g., until a certain date, until the occurrence of a special event or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.
2. Information submitted to EPA becomes stale over time. Why should the information you claim as confidential be protected for the time period specified in your answer to question number 1?
3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who

is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?

4. Is the information contained in any publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to confidentiality of the information? If so, please attach a copy of the determination.
6. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, explain whether and why disclosure of the information would tend to lessen the availability to EPA of similar information in the future.
7. Is there any other information you deem relevant to EPA's determination regarding your claim of business confidentiality?

If you receive a request for a substantiation letter from the EPA, you bear the burden of substantiating your confidentiality claim. Conclusory allegations will be given little or no weight in the determination.

EPA may also find that the information you claim as confidential is clearly not entitled to confidential treatment and will provide you a determination letter stating the same. Examples of information clearly not entitled to confidential treatment include effluent data, as defined in 40 C.F.R. § 2.302(A)(2), and information in National Pollution Discharge Elimination System permit applications are not entitled to confidential treatment. See 40 C.F.R. § 122.7.

### **Personal Privacy Information**

Please segregate any personnel, medical and similar files from your responses and include that information on a separate sheet(s) marked as "Personal Privacy Information." Disclosure of such information to the general public may constitute an invasion of privacy.